

1                                   **UNITED STATES DISTRICT COURT FOR THE**  
2                                   **EASTERN DISTRICT OF PENNSYLVANIA**

3 JIMMY JAMES,                                   )

4                                   Plaintiff                                   )

5                                   v.                                   )

6 ALLIED INTERSTATE, LLC,                                   )

7                                   Defendant                                   )

**Case No.:**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**(Unlawful Debt Collection Practices)**

8  
9                                   **COMPLAINT**

10                   JIMMY JAMES (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN,  
11 P.C., alleges the following against ALLIED INTERSTATE, LLC. (“Defendant”):

12                                   **INTRODUCTION**

13                   1.       Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15  
14 U.S.C. §1692 *et seq.* (“FDCPA”) and the Telephone Consumer Protection Act, 47 U.S.C. §227  
15 *et seq.* (“TCPA”).

16                                   **JURISDICTION AND VENUE**

17                   2.       Jurisdiction of this court arises pursuant to 15 U.S.C. §1692k(d), which states  
18 that such actions may be brought and heard before “any appropriate United States district court  
19 without regard to the amount in controversy,” and 28 U.S.C. §1331 grants this court original  
20 jurisdiction of all civil actions arising under the laws of the United States.

21                   3.       Defendant conducts business in the Commonwealth of Pennsylvania and  
22 therefore, personal jurisdiction is established.  
23  
24  
25



1           16. Defendant's calls originated from phone numbers that include, but are not limited  
2 to the following: (866) 465-3710. The undersigned has confirmed that this number belongs to the  
3 Defendant.

4           17. Plaintiff received automated calls from Defendant that began with a noticeable  
5 delay or pause before speaking to one of Defendant's collectors.

6           18. During this period, Defendant contacted Plaintiff daily, often multiple times per  
7 day.  
8

9           19. Defendant's calls were not placed for "emergency purposes."

10          20. During these calls, Defendant insisted that Plaintiff provide his date of birth as  
11 well as Social Security number prior to disclosing information to him about the alleged debt.

12          21. Fearing for his personal security interests, Plaintiff did not disclose this requested  
13 information to Defendant.

14          22. Upon initial communication with Defendant and multiple times thereafter,  
15 Plaintiff requested that Defendant stop calling his cellular telephone and to send him information  
16 in writing about the alleged debt.

17          23. Defendant heard and acknowledged Plaintiff's instruction to stop calling by  
18 continuing to talk over Plaintiff when asked to stop calling.

19          24. Once Defendant was informed that its calls were unwanted and to stop calling,  
20 there was no lawful purpose to making further calls, nor was there any good faith reason to place  
21 calls.  
22

23          25. Instead of restricting its calls to Plaintiff's cell phone number, Defendant instead  
24 continued to call Plaintiff excessively each day despite Plaintiff's repeated instructions to stop  
25 calling him.



1           34. Section 1692e(10) prohibits a debt collector from using of any false  
2 representation or deceptive means to collect or attempt to collect any debt or to obtain  
3 information concerning a consumer.

4           35. Section 1692e(5) prohibits a debt collector from threatening to take action that  
5 cannot legally be taken or is not intended to be taken.

6           36. Defendant violated §§1692e, 1692e(5), and 1692e(10) of the FDCPA by falsely  
7 stating to Plaintiff that they would file a lawsuit or seek legal action if the alleged debt was not  
8 paid. Defendant made this misrepresentation merely to coerce or compel Plaintiff to make  
9 payment. The lapse in time without any steps made in furtherance of filing a lawsuit shows that  
10 Defendant had no intention to pursue this course of action against Plaintiff when the statement  
11 was made.  
12

13                                   **COUNT III**  
14                                   **DEFENDANT VIOLATED §1692(g) OF THE FDCPA**

15           37. A debt collector violates §1692g of the FDCPA by failing to send the consumer a  
16 written notice, within five days after the initial communication with the consumer, containing all  
17 of the following: the amount of the debt, the name of the creditor to whom the debt is owed, a  
18 statement that unless the consumer disputes the debt within thirty days after receiving this  
19 written notice, the debt will be taken as valid by the debt collector, a statement that if the  
20 consumer does notify the debt collector that s/he disputes the debt, the debt collector will obtain  
21 and mail out verification of the debt, or a copy of any existing judgment, a statement that, upon  
22 the consumer's written request, the debt collector will provide the name and address of the  
23 original creditor.  
24  
25

38. Here, Defendant failed to send Plaintiff a written notice regarding the alleged debt within five days after the initial communication was made in or around May 2017. Defendant did not send Plaintiff any written notice about the debt since the calls commenced.

**COUNT IV**  
**DEFENDANT VIOLATED THE TCPA**

39. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

40. Defendant initiated automated calls to Plaintiff using an automatic telephone dialing system.

41. Defendant's calls to Plaintiff were not made for emergency purposes, as they were attempting to collect a balance remaining on Plaintiff's account.

42. Defendant's calls to Plaintiff on and after May 2017 were not made with Plaintiff's prior express consent.

43. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

44. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

45. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and treble damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, JIMMY JAMES, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3);
- d. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- e. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- f. Treble damages of \$1,500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3);
- g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
- h. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, JIMMY JAMES, demands a jury trial in this case.

1 RESPECTFULLY SUBMITTED,

2 KIMMEL & SILVERMAN, P.C.

3 DATED: April 27, 2018

4 By: /s/ Amy L. Bennecoff Ginsburg

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